

FILED
IN CLERKS OFFICE

United States District Court
For the District of Massachusetts
2020 JAN -3 PM 2:12

U.S. DISTRICT COURT
DISTRICT OF MASS.

Defendants

Defendant No. 5

Christina Ruccio

Director of Women's Programming

20 Bradston st

Boston, Suffolk County

Massachusetts 02118

Defendant No. 6

Naphcare

Contracted medical provider For

Suffolk County House of correction

2090 Columbiana RD, Ste 4000

Birmingham, AL 35216

United States District Court
for the
District of Massachusetts

Basis for Jurisdiction

1. This court has jurisdiction over these claims pursuant to 28 U.S.C §§ 1331, 1343 and 1367. Many of my claims arise under federal law, including the ADA, 42 U.S.C § 12101 et seq.; The Rehabilitation Act of 1973, 29 U.S.C. § 701, et seq.; The Civil Rights Act, 42 U.S.C § 1983; and the Fourteenth Amendment to the United States Constitution such as The Equal Protection Clause and the Due process Clause. Venue is proper in this District Under 28 U.S.C. § 1391.

United States District Court
For the
District of Massachusetts

Statement of Claim

1. I am a transgender female and have been diagnosed with gender Dysphoria over a year ago. I have been living as a women For about three years now and have been on hormones Since Nov. 1st 2018. Also my gender marker with Massachusetts R.M.V reflects my gender identity.

2. I arrived at Suffolk County H.O.C on 4-10-19. I have been requesting to be housed on a Female unit Since the time I arrived at Suffolk County H.O.C. I have Spoken to my caseworker Mental health worker, the classification team at Suffolk County H.O.C, ADS/Major of classification Zezinha Mitchell, Superintendent Yolanda Smith and many others all of which have denied my Request to be housed on a female unit. The reasons they give me for denying my request are simply put as, "Male Parts Male unit", or, "we currently do Not Mix different genders at this facility." These people Refuse to treat me the same as the other women housed at the Jail. I feel extremely discriminated against Causing my Dysphoria revolving around my gender identity to worsen.

3. I have filed two grievances which still deny my request to be housed on a female unit. I then appealed the denied grievances on 7-3-19. Superintendent Yolanda Smith met with me in person on 1-8-2 unit (a male protective custody unit in which I was living on at the time) in regards to my grievance appeal forms on 7-10-19. She again denied my request to be housed on a female unit. Yolanda Smith did agree to allow me to attend Women's Programming which I attended for the first time on 7-26-19.

4. On 7-29-19 I had Superior court in Fall River. I requested the Judge to recommend for me to be housed with same gender identity inmates. This Judge granted my request on that date. On 7-30-19 I met with ADS/Major of Classification Zezinha Mitchell and informed her of the Judge's recommendation. Zezinha Mitchell told me she would call Superintendent Yolanda Smith. Zezinha Mitchell then came back to me about 20 mins. later and said to me, "we can't mix genders at this time." She then said, "you have two options, remain on 1-8-2 unit and continue to attend women's programs or we can send you back to Bristol County." I chose to stay at Suffolk County H.O.C due to the safety risks I'd be taking if I went back

to Bristol County. I also informed Zezinha Mitchell that she was discriminating against me and that I would be filing in Federal Court.

5. On 8-2-19 at around 1:05pm Yolanda Smith and Zezinha Mitchell met with me again on 1-8-2 unit regarding my statement to Zezinha Mitchell on 7-30-19 about filing in Federal Court. Yolanda Smith informed me that she would send me back to Bristol County before allowing me to file. Yolanda Smith continues to deny my request to be housed on a female unit. When I asked her why I could not be housed on a female unit she told me that she did not have to disclose that information to me.

6. I have voiced my concerns of being housed on a male unit in general but especially on 1-8-2 male protective custody unit many times with my mental health worker, case worker and Zezinha Mitchell. I also wrote grievances about it. Housing me on 1-8-2 unit makes me extremely uncomfortable due to the fact that I'm a woman forced to live and eat around men and some of these men are on 1-8-2 unit for sexual crimes. Having been victim of sexual assault before makes this living

Situation extremely unbearable, have made my depression, Anxiety and Dysphoria worse. I am living in Constant Fear of being assaulted physically either Sexually or violently due to the fact that I am a women on a male unit. In Fact on 9-8-19 I was Sexually assaulted on 1-8-2 unit by a male inmate. I reported this with Suffolk County H.O.C. I was then moved to 1-5-1 unit after the investigation was concluded. It was Founded by Suffolk County H.O.C's Special investigations Division that my Statements were true. 1-5-1 unit where I am housed Now is still a male protective custody unit and some of these men have been convicted of Sexual Crimes.

7. When I was housed on 3-3 unit (a male general population unit) I was threatened with physical violence by many of the male inmates housed thier. I informed the unit officer and I was moved to a Segregation unit (1-3-1) for about 3 days pending a Classification hearing which I requested to be housed on a female unit. My request was denied and I was moved to 1-8-2 unit.

8. I have also requested to be better accommodated medically for my gender

Dysphoria diagnosis specifically electrolysis. I have submitted two "Sick call slips" and a grievance all of which gave me a response of "Not medically indicated". Electrolysis is a necessary medical procedure for transgender women because without it the patient can not move forward with their gender transition with gender reassignment surgery. Also, having to live as a woman with male body hair and facial hair triggers dysphoric thoughts and depression. Electrolysis is part of the standards of medical care set forth by WPATH (World Professional Association for Transgender Health).

9. In short, I am a woman being forced to eat and live with men and without appropriate, reasonable accommodations that I need for the treatment of my gender dysphoria.

10. — I therefore bring claims for violations of the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.; the Rehabilitation Act of 1973, 29 U.S.C. § 701, et seq.; the Civil Rights Act, 42 U.S.C. 1983; the Equal Protection Clause and the Due Process Clause of the Fourteenth Amendment to the United States Constitution; and the equality and due process guarantees secured by Part 1, Articles I and VII, among others, of the Massachusetts Constitution; and Articles 106 and 114 of the Massachusetts Constitution. I am seeking

injunctive relief, attorneys' fees, and all other appropriate relief.

United States District Court
for the District of Massachusetts

Prayer For Relief

Wherefore, I respectfully Pray that this Court:

A.) Enter Judgement in favor of Plaintiff against Defendants on each of the Counts in this complaint;

B.) Issue injunctive Relief against Defendants ordering Defendants not to discriminate against me on the basis of my Transgender status, My gender identity, My Sex, and/or my disability, including but not limited to ordering Defendants to:

1.) Treat me the same as all other female inmates held by Suffolk County H.O.C.;

2.) House me on a women's unit at Suffolk County H.O.C.;

3.) Discipline all Suffolk County H.O.C staff who fail to appropriately accommodate, treat and communicate with individuals with gender Dysphoria;

4.) Refer to me by my chosen female Name;

5.) Use only female Pronouns when speaking to or about me;

6.) Provide me access to electrolysis and to follow the standards of care for treatment of gender Dysphoria, established by the world Professional Association for Transgender Health (WPATH);

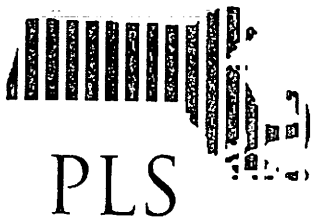
7.) Award me my reasonable costs and expenses of this Action Including any such attorney fees;

8.) Compensatory damages in the amount of \$500 per day while housed with male inmates;

9.) Punative damages in the amount of One million dollars for the Defendants egregious actions and inaction in this matter;

10.) A public apology and order to prevent any and all future harm to Transgender inmates.

11.) Grant such other and further relief as this Honorable court considers just and proper;



PRISONERS' LEGAL SERVICES OF MASSACHUSETTS

✉ 50 Federal Street, 4th Floor • Boston, MA 02110

🌐 www.plsma.org

📱 fb.me/prisonerslegalservices

📧 @PLSMA

☎ Main: 617-482-2773

📠 Fax: 617-451-6383

State prisoner speed dial: 9004 or 9005 • County prisoner collect calls: 617-482-4124

October 2, 2019

Yolonda Smith
Superintendent
South County HOC
20 Bradston Street
Boston, MA 02118

COPY

Re: Jennaya Bennett-Werra, 183905

Dear Superintendent Smith:

I am writing on behalf of Jennaya Bennett-Werra, who is incarcerated at Suffolk County HOC.

Ms. Bennett-Werra identifies as female and has been prescribed hormones by her providers at the jail. She reports she is taken to programs with other female prisoners and goes to the library with female prisoners. She reports there have been no issues during the time she is with female prisoners.

Ms. Bennett-Werra reports that Suffolk county officials will not house her with other females as stated in the Criminal Justice Reform Act (CJRA). Mass. Gen. Laws Ann. ch. 127, § 32A provides:

A prisoner of a correctional institution, jail or house of correction that has a gender identity, as defined in section 7 of chapter 4, that differs from the prisoner's sex assigned at birth, with or without a diagnosis of gender dysphoria or any other physical or mental health diagnosis, shall be: (i) addressed in a manner consistent with the prisoner's gender identity; (ii) provided with access to commissary items, clothing, programming, educational materials and personal property that is consistent with the prisoner's gender identity; (iii) searched by an officer of the same gender identity if the search requires an inmate to remove all clothing or includes a visual inspection of the anal cavity or genitals; provided, however, that the officer's gender identity shall be consistent with the prisoner's request; and provided further, that such search shall not be conducted for the sole purpose of determining genital status; and (iv) **housed in a correctional facility with inmates with the same gender identity; provided further, that the placement shall be consistent with the prisoner's request, unless the commissioner, the sheriff or a designee of the commissioner or sheriff certifies in writing that the particular**

placement would not ensure the prisoner's health or safety or that the placement would present management or security problems.

Ms. Bennett-Werra reports she has consistently made requests to be housed with members of her own gender but this request has not been granted. Please grant Ms. Bennett-Werra a transfer to the women's unit at Suffolk County.

I am seeking releases signed by Ms. Bennett-Werra. I will forward the releases when I receive them. I look forward to your response to Ms. Bennett-Werra's housing needs and this letter.

Sincerely,



Al Troisi
Paralegal

Suffolk County Sheriff's Department

Grievance Form

 TODAY'S DATE: 7-2-19 DATE / TIME INCIDENT 6-27-19 / 6-29-19 / 7-1-19 LOCATION OF INCIDENT: 1-P-2

 HOUSING UNIT: 1-8-2 NAME: James Bennett Werra BOOKING #: 1902435

Per Policy S491, your grievance will be returned if you do not indicate with whom you have attempted to resolve this issue.

☐ **Emergency** Check this box only if your grievance involves an issue for which the delay in resolution may cause a substantial risk of personal injury or other damages.

Describe the grievance, be specific, include names and dates

I have filed 2 med SLIPS Asking to be better Accommodated with the treatment regarding my gender Dysphoria. I Asked to be given the chance to see an electrolysisist to remove Body hair. This is a Necessary Medical procedure in treating people with gender Dysphoria because if you Don't have the laser hair Removal done one can Not have the Sex Reassignment Surgery. On both of my med slips they give a response of Not Medically indicated but it is.

SUGGESTED REMEDY: I would like to be better Accommodated Medically for my gender Dysphoria and ~~please~~ get the chance to see an electrolysisist Please and thank you.

 Inmate signature James Bennett Werra Date 7-2-19

DO NOT WRITE BELOW THIS LINE

Report Number: <u>G190484</u>	Decision: <input checked="" type="checkbox"/> RETURNED	COMMENTS (IF REFERRED, specify to whom and why):
Date Received: <u>7-3-19</u>	<input type="checkbox"/> DENIED	
Appeal Date: _____	<input type="checkbox"/> RESOLVED	
	<input type="checkbox"/> REFERRED	

REASON(S) FOR DECISION: See attached per L190484 L190484
in Medical

 Institutional Grievance Coordinator: Gallina Date: 7-5-19

You may appeal the decision of the IGC to the Superintendent within (10) dates if the decision. Only the official Inmate Grievance Appeal Form will be accepted. The Superintendent's decision is final.



Suffolk
20 Bradston Street
Boston, MA 02118

7/5/2019 11:24:21 AM Eastern Daylight Time

**PICTURE
NOT AVAILABLE**

Patient: BENNETT-WERRA, JAMES	#: (165359) 1902435	Lang:
DOB: 8/22/1997 (Age=21)	Sex: M	Race: W
Housing: HOC-1-08-2-14-A	SSN: **HIDDEN**	Type:
Status: ACTIVE	Booking Date: 4/10/2019 1:21:00 PM Eastern Daylight Time	Release:

Grievance

Date Of Grievance:	Date Received:	Date of Response:	Closed
6/27/2019	7/3/2019	7/4/2019	

Grievance Types:

Dissatisfied with quality of medical care

Description:

You would like to be better accommodated for your Gender Dysphoria by having Electrolysis.

Response:

Unfortunately, Electrolysis is not medically indicated.

FT

Suffolk County Sheriff's Department
Grievance Form

TODAY'S DATE: 10-23-19 DATE / TIME INCIDENT 10-23-19 8:10am LOCATION OF INCIDENT: 1-4-2

HOUSING UNIT: 1-4-2 NAME: James Bennett-Werra BOOKING #: 1902435

Per Policy S491, your grievance will be returned if you do not indicate with whom you have attempted to resolve this issue.

☐ **Emergency** Check this box only if your grievance involves an issue for which the delay in resolution may cause a substantial risk of personal injury or other damages.

Describe the grievance, be specific, include names and dates

The black LT. Bald with glasses entered the 1-4-2 while I was on rec time. I was asking someone 4 soap to take a shower because the CO's didn't have any soap packets. The LT. told me to get off the floor calling me "the Noto Man". He continued to call me a nigger and told me to write a grievance saying things like "the fuck has this world come too". I told him that he was being an asshole and that I would write a grievance on him. This is just another example of how I'm not being treated how I should be and that it's blatant discrimination. None of the other women get harassed by CO's or called by a different gender.

SUGGESTED REMEDY: This LT. Needs to be reprimanded and educated on how to treat people. He told me to write a grievance because he thinks he can treat people any type of way without consequences. He Needs to know that this is not true.

Inmate signature James Bennett-Werra Date 10-23-19

DO NOT WRITE BELOW THIS LINE

Report Number: <u>9190855</u>	Decision: <input checked="" type="checkbox"/> RETURNED	COMMENTS (IF REFERRED, specify to whom and why):
Date Received: <u>10-28-19</u>	<input type="checkbox"/> DENIED	
Appeal Date: _____	<input type="checkbox"/> RESOLVED	
	<input type="checkbox"/> REFERRED	

REASON(S) FOR DECISION: Per Dep Sup McGrath: All staff has been trained on how to respond and interact with respect to transgender inmates.

Institutional Grievance Coordinator: _____ **Date:** 10/30/19

Suffolk County Sheriff's Department Grievance Form

TODAY'S DATE: 7-24-19 DATE / TIME INCIDENT 7-24-19 LOCATION OF INCIDENT: 1-8-2

HOUSING UNIT: 1-8-2 NAME: James Bennett-Werra BOOKING #: 1902435

Per Policy S491, your grievance will be returned if you do not indicate with whom you have attempted to resolve this issue.

☒ **Emergency** Check this box only if your grievance involves an issue for which the delay in resolution may cause a substantial risk of personal injury or other damages.

Describe the grievance, be specific, include names and dates

My Prea rights are being violated because I'm a high Potential Risk of being a victim of Prea Due to being transgender, being small in size, My Age, and the fact that I've already been a victim of Prea in Bristol County. I'm being housed with people who are high Potential Predator Due to their sex crimes. Also, My Prea rights are being violated because I've reported being Sexual Assaulted in a previous Jail and Never seen the Prea coordinator. I have mentioned many times that I feel extremely uncomfortable being housed ~~on~~ on this unit to Mental health and my caseworker and women's programming.

SUGGESTED REMEDY: I would like to go to the female unit, see classification and see the prea coordinator.

Inmate signature James Bennett-Werra Date 7-24-19

DO NOT WRITE BELOW THIS LINE

Report Number: <u>6190551</u>	Decision: <input type="checkbox"/> RETURNED	COMMENTS (IF REFERRED, specify to whom and why):
Date Received: <u>7/30/19</u>	<input type="checkbox"/> DENIED	
Appeal Date: _____	<input checked="" type="checkbox"/> RESOLVED	
	<input type="checkbox"/> REFERRED	

REASON(S) FOR DECISION: The incident in Bristol is still being investigated. You are on a house arrest status. You will be attending programs with the females.

Institutional Grievance Coordinator: [Signature] Date: 7-30-19

You may appeal the decision of the IGC to the Superintendent within (10) dates if the decision. Only the official Inmate Grievance Appeal Form will be accepted. The Superintendent's decision is final.

PT

Suffolk County Sheriff's Department
Grievance Form

TODAY'S DATE: 6-21-19 DATE / TIME INCIDENT 6-21-19 LOCATION OF INCIDENT: 1-8-2

HOUSING UNIT: 1-8-2 NAME: James Bennett-Werra BOOKING #: 1902435

Per Policy S491, your grievance will be returned if you do not indicate with whom you have attempted to resolve this issue.

☐ **Emergency** Check this box only if your grievance involves an issue for which the delay in resolution may cause a substantial risk of personal injury or other damages.

Describe the grievance, be specific, include names and dates

I Requested to move to the Female Unit through my case worker, but she said I needed to ask the Superintendent. So I wrote the Superintendent over two weeks ago and received no response.

I also wrote a letter to Mayor Thomas and requested to be moved at my last classification hearing.

SUGGESTED REMEDY: hear a response from the Superintendent so I can move to a female unit.
THANK YOU.

Inmate signature James Bennett-Werra Date 6-21-19

DO NOT WRITE BELOW THIS LINE

Report Number: <u>9190447</u>	Decision: <input type="checkbox"/> RETURNED	COMMENTS (IF REFERRED, specify to whom and why):
Date Received: <u>6-24-19</u>	<input checked="" type="checkbox"/> DENIED	
Appeal Date: _____	<input type="checkbox"/> RESOLVED	
	<input type="checkbox"/> REFERRED	
REASON(S) FOR DECISION: <u>You will not move to a female unit at this time. You may participate in the transgender support group.</u>		

Institutional Grievance Coordinator: / Mitchell Date: 6-26-19

You may appeal the decision of the IGC to the Superintendent within (10) dates if the decision. Only the official Inmate Grievance Appeal Form will be accepted. The Superintendent's decision is final.

Suffolk County Sheriff's Department

Grievance Form

PT

TODAY'S DATE: 9-23-19 DATE / TIME INCIDENT: 9-16-19 to 9-20-19 LOCATION OF INCIDENT: 1-5-1 women's programs
 HOUSING UNIT: 1-5-1 NAME: James Bennett-Werra BOOKING #: 1902435

Per Policy S491, your grievance will be returned if you do not indicate with whom you have attempted to resolve this issue.

☐ **Emergency** Check this box only if your grievance involves an issue for which the delay in resolution may cause a substantial risk of personal injury or other damages.

Describe the grievance, be specific, include names and dates

On 9-17-19 Christina Rucio came to talk to me on 1-5-1 unit to explain why I was taken off the women's programs list. She told me the reason why is because of a Disciplinary Report I was given on 9-5-19. She said that I would lose my program privileges for the week of 9-16-19 - 9-20-19. I Attended programs today on 9-23-19 and was told that the other inmate involved in my Disciplinary report did Not lose her program privileges but still received the 48 hour restricted movement. It is Not Fair to punish me Twice with 48 hour restricted movement and a week of lost programs and the other inmate was Not. This is blatant discrimination against me why am I being treated differently than the other women involved in the Disciplinary report.

SUGGESTED REMEDY: I want to be housed on a women's unit to Avoid further Discrimination. I want to be treated the same as all other women. I want to be able to Attend more women's Programs.

Inmate signature: James Bennett-Werra Date: 9-23-19

DO NOT WRITE BELOW THIS LINE

Report Number: <u>9190751</u>	Decision: <input type="checkbox"/> RETURNED	COMMENTS (IF REFERRED, specify to whom and why):
Date Received: <u>10-2-19</u>	<input checked="" type="checkbox"/> DENIED	
Appeal Date: _____	<input type="checkbox"/> RESOLVED	
	<input type="checkbox"/> REFERRED	

REASON(S) FOR DECISION: DET RUCIO spoke to you and the other detainees about the incident.

Institutional Grievance Coordinator: [Signature]

Date: 10/8/19

You may appeal the decision of the IGC to the Superintendent within (10) dates if the decision. Only the official Inmate Grievance Appeal Form will be accepted. The Superintendent's decision is final.

S491
3 pt G

SUFFOLK COUNTY SHERIFF'S DEPARTMENT

INMATE GRIEVANCE APPEAL FORM

The Grievant has the right to appeal the decision of the Inmate Grievance Coordinator, using only this form, within ten (10) working days of receipt of the decision.

Once the appeal form is completed it shall be forwarded to the Superintendent, along with a copy of the grievance/decision. The Grievant should maintain a copy of the appeal and grievance for their own record.

Inmate's name JAMES BENNETT WELLS I.D.# 1902435 Date sent: 7/9/19

Reason for Appeal: Appealing Grievance # G190484 Asking for better Accommodation for my gender Dysphoria. Electrolysis is in fact medically indicated because it has to get done before someone can move forward with sex reassignment surgery.

Remedy: I would like to have electrolysis work done as the DOC does for people with gender dysphoria. Please and thank you

Jamell Bennett Wells
Grievant Signature

7/9/19
Date

.....
BELOW TO BE COMPLETED BY THE SUPERINTENDENT OR DESIGNEE
.....

Date Received: 7/15/19 Grievance # G190484

Decision Resolved

Reason(s) Please forward this request to Napheene and get the medical contractor and handle such work

[Signature]
Superintendent/desinee

8/1/19
Date

SUFFOLK COUNTY SHERIFF'S DEPARTMENT

INMATE GRIEVANCE APPEAL FORM

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Once the appeal form is completed it shall be forwarded to the Superintendent, along with a copy of the grievance/decision. The Grievant should maintain a copy of the appeal and grievance for their own record.

Inmate's name JAMES BENNETT-WELLS I.D.# 1402435 Date sent: 7/13/19

Reason for Appeal: According to the New Criminal Reform Act
and Senate Bill 2402 I am supposed to be given the
opportunity to be housed on a female unit Due to my gender

I feel that I am not being safe. You put me in danger and violate my
Constitutional Right amongst other rights. Please keep me from discrimination.

Remedy:

I need to be housed on a female unit because I am a
female and it is my right. I would like to be treated as another
woman and not be discriminated against please and thank you.

Jamell Bennett-Wells
 Grievant Signature

7/13/19
 Date

.....
BELOW TO BE COMPLETED BY THE SUPERINTENDENT OR DESIGNEE

Date Received: 7/19/19 Grievance # 6190447

Decision Resolved

Reason(s) Mr Bennett you and I have spoken about
this all over again. You are housed alone in your
cell. You should have been taken to a regular cell
and you should be programing with the other
inmates.

Superintendent/desinee

Date

SUFFOLK COUNTY SHERIFF'S DEPARTMENT

INMATE GRIEVANCE APPEAL FORM

The Grievant has the right to appeal the decision of the Inmate Grievance Coordinator, using only this form, within ten (10) working days of receipt of the decision.

Once the appeal form is completed it shall be forwarded to the Superintendent, along with a copy of the grievance/decision. The Grievant should maintain a copy of the appeal and grievance for their own record.

Inmate's name James Bennett-Welka I.D.# 1402435 Date sent: 7/13/2019

Reason for Appeal: My grievance decision given to me about the library
was in correct. Inmates on 1-8-2 unit Do Not have Access to the library
in the 3 building like everyone else we only get Access to a little room

on the 5th floor once a week on Wednesday Nights and this room contains
Law books and very few regular books.

Remedy: we would like to be treated equally and have access to the real

library in the 3 building it is not a safety issue if the female units get
to go too. This is unfair and violates our Equal Protection clause and

Discriminates against us because we are a protective unit. We should be
given 1 day a week to go to the building library and keep our other 4 day a week to the 5th floor
room. we could go with 1-5-2 unit just like we go to the yard together.

James Bennett Welka
 Grievant Signature

7/13/2019
 Date

BELOW TO BE COMPLETED BY THE SUPERINTENDENT OR DESIGNEE

Date Received: 7/9/19

Grievance # G 190446 - G 190474

Decision Denial / Rejected

Reason(s) I have been to the library
on the 5th floor. you will be able to go
to the library with the women. Please allow

Applicant's Signature
 Superintendent/desinee

8/1/19
 Date

I would like you to communicate that-